

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

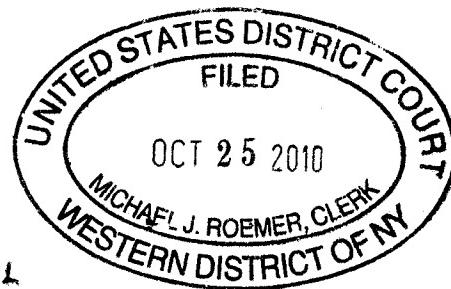
JOSE ORRACA
Plaintiff
- V - D.O.C.S.

Augustine
ONIFER
Crawfor
Ceccce
Wetmore
Defendants

IN their individual and official
capacity.

42 U.S.C. 1983
Civil Action Complaint

JURY DEMANDED
10 CV 840 M



JOSE ORRACA, Pro-se Plaintiff for the Complaint against the Defendants: Augustine, Correctional officer (1) ONIFER Correctional officer (2) Crawford, Correctional officer (3) Ceccce, Correctional officer (4) and Wetmore, D.A. District Attorney: Alleges as follows.

- JURISDICTION, AND VENUE -

1) This honorable Court has Jurisdiction over this Action under 28 U.S.C. 1331(3) And (4) the Matter in Controversy Arose under 42 U.S.C. 1983.

2). VENUE properly lies in this DISTRICT Pursuant to 28 U.S.C. 1331(b)(2) because the EVENT given rise to this Case of action occurred at Southport Correctional facility, which is located within the WESTERN District of New York.

-PARTIES-

3). Plaintiff: JOSE ORRACA, is and was at all times relevant to the Complaint hereto a PRISONER in custody of the State of New York Department of Correctional Southport Correctional facility

4) DEFENDANT: Augustine, is and was all times relevant to the Complaint hereto a Correctional officer of the State of New York Department of Correctional Southport Correctional facility.

5) Defendant: ONIFER, is and was at all time relevant to the Complaint hereto a Correctional officer of the state of New York Department of correctional Southport Correctional facility.

6) Defendant: Crawford, is, and was at all times relevant to the Complaint hereto a Correctional officer of the State of Newyork Department of Correctional Southport Correctional Facility.

7) Defendant: Cecce, is, and was at all times relevant to the Complaint hereto a Correctional officer of the state of newyork Department of Correctional Southport Correctional facility.

8) Defendant: Metmore is, and was at all time relevant to the Complaint hereto a District Attorney of the State of Newyork at 226 Lake, St. Elmira N.Y. 14902

GRIEVANCES file by the Plaintiff.

9). the Plaintiff file and fully exhausted his GRIEVANCE MECHANISM on each of the claims. Allegations of the employees. AFTER exercising the obligation Plaintiff Reported the incidents to Supervisor, Mental health and file a felony Complaint with the D.A. MR WETMORE At 226 Lake St. Elmira N.Y. 14902. And After been threatened by employes the Plaintiff was discourage to Proceed with the Complaint, any further with the D.O.C.S AND file Civil Action 1983. SEE: GRIEVANCES Spt-48739-10. Spt-45581-08. Spt-45687-08. Spt-47786-09. Spt-47550-09. Spt-48855-10. Spt-48802-10

STATEMENT of FACTS

ON february 18th 2010, the Plaintiff Jose Orraca. was revoved unlawfully from the medical UNIT B-2-11 Cell to A-11-19 Cell.

I). Correctional officer Augustine, Approched the Plaintiff real close from behind with his face by Plaintiffs left ear with his right hand on the Plaintiffs 'Butt' AND his left hand IN the Plaintiff PENIS. Augustine WAS unsolicited toucting the Plaintiffs "Buttack" AND "Penis" MAKING propositions AND wisporing sexual comments to the Plaintiff. The Plaintiff turned to faced the officer Augustine, AND told the officer that "I AM NOT INTO MENS more THAN ONCE." Officer Augustine, violently, maliciously. And in bad faith for the VERY intentional purpose of inflicting harm to the Plaintiff Rushed the Plaintiff againt the "wall" Excessively. which as the result the Plaintiff suffered A Laceration about the "head" the Plaintiff was at all times CHAINED. handcuffed.

II). Correctional officer: Augustine (1) Correctional officer: Onifer(2)
Correctional officer: Crawford (3) violated the Plaintiffs constitutional rights to be free from cruel, and unusual Punishment. As follow:
the Plaintiff at al times was handcuffed restrained. with CHAINS, AND with ONE Correctional officer holding the Plaintiff in each side securiting all of Plaintiffs movements which the Plaintiff Possed no threats what so ever to the Correctional officer. The Correctional officels Augustine, Onifer, AND Crawford WALKed the Plaintiff to the Shower where Correctional

12) Officer: Augustine, with the help of officer: Onifer unzipped the Plaintiff's pants "the Plaintiff with no defence do to the CHAINS AND HANDCUFFS throw himself in the floor in fear and frustration because of the sexual assault. And Proposition made by officer Augustine. officer: Onifer. And Augustine "PICKUP" the Plaintiff from the floor, and sitted the Plaintiff down in the shower bench, Officer. Onifer, Positioned himself behind officer: Augustine "ENGAGING IN SEXUAL INTERCOURSE" officer, Augustine, unsolicited touched the Plaintiff's Penis and when the Plaintiff refused officer Augustine's sexual fantasy. officer, Augustine, Assaulted the Plaintiff physically for not willingly participating in their sexual fantasy.

13) Correctional officer, Augustine knowing of his "Power" forced the Plaintiff into physical sexual act. by performing unsolicited "fellatio" (oral sex) on the Plaintiff even say anything about the MATTER: officer: Onifer changed position with officer, Augustine "ENGAGING IN SEXUAL INTERCOURSE" and performing unsolicited FELLATIO "SEX" on the Plaintiff. officer: Augustine, wrote a misbehavior report against the Plaintiff "to cover up his actions" knowing that Plaintiff would file charges against the officers.

14) Crawfor, AT all times at the shower door yelling, and screaming at the two officers, Onifer and Augustine that he was against their fantasy. And against their bizarre behavior. That he wanted no parts of it, and that they were crazy. but did nothing to stop it. NOR Did not called a SUPERVISOR to Stop the Physical

14-A) AND sexual assault officer: Crawford. Also warned officers ONTER, and AUGUSTINE that he was not about to lose his job over their homosexual fantasy.

15) AT Plaintiffs Arrival at southport Correctional facility befriended A. Correctional officers, Cecce, who was always nice, and seen very friendly until one day officer: Cecce, Confesse that before he worked as a Correctional officer, he worked IN 'PORNO' and that was his reasons for to bid for the shower Job. that MENS IN UNDERWEAR OR NAKED MENS OF COLOR Coused sexual excitement to him. And that he love it. he officer: Cecce, when on to say that when he was '18' years old "the best Job he ever had was to keep the 'Male' PORNO STARS" ERECT." In desbelief the Plaintiff asked officer Cecce what did he ment by keeping the male "PORNO-STARS" ERECT"? I Give the head "he say between takes, and They Pay me" well "for what I Loved to do." but "I decided to go for the Correctional officer's Job because They have better benefits" AND I CAN WORK every day. and do lots of overtimes. The Plaintiff was SICK to the stomach. officer: Cecce also say that they have a KNIT OFFAGS IN South punk US. Girls. Take care of each other, and never go against our own. the Plaintiff Decided to stop the friendship with these sick individual IN A way that was not going to harm or hurt the Plaintiff for all that the Plaintiff already know about the officer the Plaintiff must Played Safe.

16) the Plaintiff has nothing against 'GAY' People but believes that is not normal. And will keep his opinion to himself.

17) Officer: Ceccee also confesed that several of them IN Southport gave the MEN'S that they want for themselves, or The MEN'S that They like the best 'Job' and tha at times They Provide then with Thing that are NOT allowed IN Southport. Officer Ceccee also stated to the Plaintiff that he Should go up to the third Floor with (His Girls) that it would be easier for Thing up in the Third Floor to happen, and that the Plaintiff would be TAKEN Care off Nicely. the Plaintiff refused officer Ceccees advances And told officer Ceccee that I would never do such of thing the Plaintiff has a beautiful "wife" and the Plaintiff is not into MENS at all. officer Ceccee Continue to MAKE ADVANCES AND tried to CONVINCE the Plaintiff to move to the third floor.

18) You are moving "up" to the third floor OrrACA! officer Ceccee Said more AS AN "ORDER" ON OR about JANUARY 29th 2010, The Plaintiff returned from a court trip, and was Directly sent to the third Floor: Just the way officer Ceccee told Plaintiff before Plaintiff court trip. Confused the Plaintiff Asked the Sergeant Why these move to the third Floor? the Plaintiff told the Sergeant that his cell was IN B-2-11". NOT ANY more "the sergeant unanswered the Plaintiff. IN disbelief of the "Power" the Correctional Homosexuals had at Southport the Plaintiff once more Confronted the Sergeant, and asked to Please make a Phone call. because it was impossible for the Plaintiff to WALK up the stairs to the Third Floor with All the Property, And Legal work, The Plaintiff has KNEE's AND hips injuries from the officers assault.

19) listen to me" MR ORRACA "the Sergeant 'say" the move is not going to be changed "you" either go up "or go" down "to level (1) one with a misbehavior report for refusing movement and control, officer Augustine, came to the Plaintiff Cell A-10 GALLERY "to move me there up in the third floor." Relax Orraca" officer Augustine told the Plaintiff everything is going to be okay, The Plaintiff became frustrated, and fearful "Now" the Plaintiff understood that this 'gay' Correctional officer were truly 'Powerful' in Southport, once more, and out of fear the Plaintiff called the Sergeant and told the sergeant the truth about these" facts "the Plaintiff was AMAZED to find out that even the Sergeant 'K Now' About the KNT world of homosexuals working in Southport. The Plaintiff heard the sergeant said under his breath, This fucking fagg "The Sergeant left my cell, and came back. Five(5) minutes later with a very bad attitude. saying to himself 'whoever had something to do with this shit, is going to Pay.' Come on ORRACA "you cannot stay up in this floor you have a flat medical order. NO SHIT SGT, The Plaintiff answer back, three(3) Correctional officer came to my cell, the sergeant was talking to officer Ceccee in a loud voice can any one here explain to me how I got myself in this Shit? And how ORRACA end up in the third floor? NONE say nothing. At soon as the sergeant left, officer Ceccee went off he looked CRAZY, orraca you would not be in this gallery long Asshole" you made me look bad real fucking bad and you're going to Pay for it, Ceccee wrote a Concocted misbehavior report, and Assaulted the Plaintiff Plaintiff way to the shower on February 2010

20). AT the Plaintiffs hearing the hearing officer already know about the incident, and about the misbehavior report. The Plaintiff was shock to know that even the hearing officer know about this homosexuals " the Plaintiff asked the hearing officer if he know that Correctional officer, Ceccce was a FAG? I know all about Ceccce he say to my disbelief the hearing officer, and he wears blue like "me" whatever the officer do with his Personal life is not my CONERN! Now I AM going to find you guilty of the misbehavior report, but I AM NOT moving you from the "Gallery" stay away from Ceccce okay. How can the Plaintiff stay away, From Ceccce Sir? If you're sending the Plaintiff back to the officer Gallery? Stay away from him that all. At soon as officer. Ceccce saw the Plaintiff coming back for the second time to the Gallery the officer went "ballistic upset" or rage you want be here long. The Plaintiff was packed away and sent back to A-11-19 Cell on February 18th 2010. See: PAGE ONE "of the statement of facts, Paragraph(11th)

21) the Plaintiff file a - Grievance - knowing that Plaintiffs life was, and is in danger of retaliation from the officers mentioned above however the Plaintiff believes that these Homosexuals had to be stoped.

22) The Plaintiff "stoped mental health" who called the supervisor Deputy Superintendent of Security Ms. Sheahan who turned the blind side to the facts. "sheaker" responded in favor of his officers with confusing statements about other officer names that had nothing to do with the

21A) ASSAULT. ON FEBRUARY 24TH 2010, THE PLAINTIFF PERSONALLY TALK WITH MS SHEAHER. AND ASKED THE SUPERVISOR WHY HE WAS COVERING FOR WRONG DOUR'S HOMOSEXUALS? MS SHEAHER, HAVE COVER UP FOR THE THREE HOMOSEXUALS. AUGUSTINE, ONIFER, AND CECEL AGAINST THE PLAINTIFF BECAUSE THE PLAINTIFF IS A PRISONER, AND WHO WITH MUCH FEAR HAVE SUFFERED THE RETALIATION OF A 'MEMO' WRITTEN BY MR. SHEAHER ON FEBRUARY 25TH 2010. WELL MR. SHEAHER HAVE SHOWN SOME TANGIBLE CONNECTION WITH THE HOMOSEXUAL WHOM HAVE VIOLATED THE PLAINTIFF RIGHTS TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT WHICH IS A VIOLATION OF THE CONSTITUTIONAL AMENDMENT EIGHT (8TH) AND FOURTEENTH (14TH) CONSTITUTIONAL RIGHT.

22) THE PLAINTIFF IN FEAR FOR HIS LIFE, AND SOFTLY A FELONY COMPLAINT FOR SEXUAL ASSAULT. AND RAPE IN THE D.A. DISTRICT ATTORNEYS OFFICE OF THE HONORABLE: WEEDEN A. WETMORE, AT 226 LAKE ST. ELMIRA N.Y. 14902. THE PLAINTIFF MAILED A TRUE COPY OF THE FELONY COMPLAINT TO THE HONORABLE: STEVEN W. FORREST JUDGE. OF ELMIRA COURT, AND TO THE HONORABLE: THOMAS E. RAMICH, JUDGE OF THE ELMIRA COURT. TO NO AVAIL. THE PLAINTIFF IN FEAR FOLLOW UP WITH A PLEADING LETTER DATED MAY 27TH 2010 TO THE HONORABLE WETMORE, STATING THAT THE PLAINTIFF IS BEING HARRASSED AND THAT HIS LIFE WAS IN DANGER. WHICH THE PLAINTIFF HAVE FOUND HIMSELF IN AD POSITIONS THE PLAINTIFF NEVER HEARD. FROM THE D.A.

23) During the assaults, Sexually and Physically the Plaintiff was at all time helpless in shackles and in hard Iron there was nothing that the Plaintiff could have done to harm the officers and there was not much that the Plaintiff could have done of anything to cause any trouble to the defendants, neither the Plaintiff could have done to defend himself from the sexual nor the physical assault which amounted to cruel inhuman degradings which have a detrimental Physical and Mental effect on the Plaintiff, the statement made by the Deputy Superintendent of Security Mr. Sheahan on his memorandum Dated February 25th 2010, is not difficult to imagine, the scenario of the officers sexual behavior and assault, and the scenario of the Deputy Superintendent of Security in which his 'MEMO' statement can be compromised in order, and in effort to protect his 'FAGS' As Correctional officers, and 'Cover up' "for the officers" is unjust. MR. Sheahan Discriminatory Consideration Against the Plaintiff, his lack of Leadership his Poor Management of employees, are, and should be of Particular Concern to the Court.

FIRST CASE OF ACTION
EXCESSIVE FORCE, SEXUAL ASSAULT.

24). Plaintiff, JOSE ORRACA, Allege, and incorporate by reference to his allegations in Paragraphs (1) one through (24) twenty four as fully restated herein:

25). Defendant: Augustine, violated the Plaintiff's JOSE ORRACA Constitutional rights to be free from excessive force Sexual Assault, And Cruel, and UNUSUAL PUNISHMENT: ON february 18th 2010, by Assaulting the Plaintiff Sexually AND Physically IN A maliciouSly, AND handcuffed the Assault was performed for NO other reason than for sexual satisfaction to the defendant. IN VIOLATION of the Plaintiff Constitutional Rights (8th) Eighth and (14th) Fourteenth amendment.

26). Defendant: ONIFER. Violated the Plaintiff's Constitutional Rights to be free from excessive force. Sexual ASSAULT and Cruel and UNUSUAL PUNISHMENT of february 18th 2010, by Assaulting the Plaintiff Sexually, AND Physically the Assaults were carried out IN bad faith, sadistically, AND maliciouSly for the very purpose of inflicting bodily harm furthermore the Assault was performed for NO other reason than sexual satisfaction to the defendant, AND was rather UNNECESSARY Cruel, and UNUSUAL PUNISHMENT IN VIOLATIONS of the Plaintiff's Constitutional Right AMENDMENT, (1st) first (8th) Eighth AND (14th) Fourteenth.

27) Defendant: Crawford, violated the Plaintiff's Constitutional rights to be free from excessive force, and sexual assault of February 18th 2010, by serving as the other officer, Augustine, and ONFER Lookout and not stopping the sexual, and Physical Assault upon the Plaintiff, and for not alerting the supervisor to stop the assault.

28) Defendant: Cecree. Violated the Plaintiff's Constitutional rights to be free from excessive force, and cruel, and unusual punishment by assaulting the Plaintiff on February 1st 2010, by setting the Plaintiff up to be sexually assaulted on February 18th 2010, and on January 29th 2010. Unlawfully sending the Plaintiff out of the medical unit to the third floor.

29). Defendant: Wetmore, violated the Plaintiff Constitutional rights to be free from cruel, and unusual punishment by denying the Plaintiff Protection of the law. Mr. Wetmore was deliberately indifferent to the risk of the Plaintiff safety in violation of the Eight (8th) Amendment, and negligence.

- INJURIES SUSTAINED -

30) As a result of the defendant's Assault use of excessive force and sexual assault forced on the Plaintiff while being on handcuff and in foul restraints the Plaintiff suffered extreme pain from lacerations, bruises, swelling, ERYTHROYSIS, ABRASION, and other injuries, about the face, wrist, neck, Also the sexual assault cause the Plaintiff severe emotional and psychological harm and humiliation for no other reasons than to show the Plaintiff that they can do what they say, and get away with it. The Plaintiff suffering mental, and emotional distress

- DAMAGES -

Wherefore: the Plaintiff request that this honorable court declare, that the act "complained herein are in violation of the Plaintiff Right under the Constitutional Constitution, and laws of the United States.

ENTER, JUDGEMENT IN FAVOR OF THE PLAINTIFF FOR ACTUAL COMPENSATORY INCLUDING CONSEQUENTIAL DAMAGE IN THE AMOUNT OF ONE (1) MILLION FIVE (5) HUNDRED THOUSAND DOLLARS \$ 1,500,000.00. AGAINST DEFENDANTS JOINTLY AND SEVERALLY TO COMPENSATE THE PLAINTIFF FOR HIS EXTREM PAIN AND SUFFERING, AND OTHER HARSHIPS ARISING FROM THE DEFENDANTS SEXUAL, AND PHYSICAL, AND MENTAL ASSAULT.

ENTER, JUDGEMENT IN FAVOR OF THE PLAINTIFF IN THE AMOUNT OF ONE (1) MILLION THREE (3) HUNDRED THOUSAND DOLLARS \$ 1,300,000.00. PUNITIVE DAMAGE AGAINST EACH DEFENDANT WITH THE EXCEPTION OF DEFENDANT CECCE AGAINST WHOM PUNITIVE DAMAGE TO BE FIVE (5) MILLION DOLLARS, \$ 5,000,000.00. ARE TO BE ASSESSED.

AWARD THE PLAINTIFF THE COST OF THIS ACTION INCLUDING REASONABLE ATTORNEY FEES IF ATTORNEY ARE APPOINTED TO THE PLAINTIFF.

Respectfully

OCT 21st 2010

JOSE ORRACA #9349300
Syrphpon Corr. fac.
P.O. Box 2000
PINE CITY, N.Y. 14871

Jose Orraca #93A9300
Southport Corr. fac
P.O. Box 2000
Pine City N.Y. 14871

Oct 25 2010

10 CV 840 M

Oct 21st 2010

Hon: Mr. Michael J. ROEMER
United States District Clerk.

Dear Hon: ROEMER

enclose Please find (6) six 1983 forms for filing. Please stamp one and forward it to me stamped and file.
(b) Marshal forms, six. (1) one inmate Authorization form
And (1) one In forma Pauperis form.

Thank you for your time and consideration

Respectfully



Jose Orraca